

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

COOPER-STANDARD
AUTOMOTIVE, INC.,

Plaintiff,

Case No. 22-cv-11083
Hon. Matthew F. Leitman

v.

AMPHENOL THERMOMETRICS, INC., *et al.*,

Defendants.

/

**ORDER GRANTING DEFENDANT LEAVE
TO FILE A FIRST AMENDED COUNTERCLAIM**

On May 18, 2022, Plaintiff Cooper-Standard Automotive, Inc. filed this action against Defendants Amphenol Thermometrics, Inc. and Amphenol Advanced Sensors Puerto Rico, LLC (“Amphenol Puerto Rico”). (*See* Compl., ECF No. 1.) Amphenol Puerto Rico has now filed a Counterclaim against Cooper-Standard. (*See* Counterclaim, ECF No. 18.) In the Counterclaim, Amphenol Puerto Rico alleges, among other things, that Cooper-Standard breached the parties’ contract. (*See id.*)

On January 9, 2023, Cooper-Standard filed a motion to dismiss the Counterclaim pursuant to Federal Rules of Civil Procedure 12(b)(6). (*See* Mot. to Dismiss, ECF No. 22.) One of bases for dismissal is that Amphenol Puerto Rico has failed to plead sufficient facts to state viable claims under the Supreme Court’s decisions in *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009), and *Bell Atlantic Corp. v.*

Twombly, 550 U.S. 544, 570 (2007). (*See, e.g., id.*, PageID.547-549.) Cooper-Standard further argues that Amphenol Puerto Rico has failed to identify the contract that it (Cooper-Standard) allegedly breached. (*See id.*, PageID.549-550.) Cooper-Standard therefore insists that Amphenol Puerto Rico has not provided “fair notice” of its claims under Federal Rule of Civil Procedure 8(a). (*Id.*)

Without expressing any view regarding the merits of the motion to dismiss, and as the Court did when Amphenol Puerto Rico moved to dismiss Cooper-Standard’s claims earlier in this action (*see* Order, ECF No. 8), the Court will grant Amphenol Puerto Rico the opportunity to file a First Amended Counterclaim in order to remedy the alleged deficiencies in its allegations identified in the motion to dismiss. The Court does not anticipate allowing Amphenol Puerto Rico another opportunity to amend to add factual allegations that it could now include in its First Amended Counterclaim or to address the “fair notice” argument. Simply put, this is Amphenol Puerto Rico’s opportunity to amend its allegations to cure the alleged deficiencies in its claims.

By **January 25, 2023**, Amphenol Puerto Rico shall file a notice on the docket in this action notifying the Court and Cooper-Standard whether it will amend the Counterclaim. If Amphenol Puerto Rico provides notice that it will be filing a First Amended Counterclaim, it shall file that amended pleading by no later than **February 8, 2023**. If Amphenol Puerto Rico provides notice that it will not be filing

a First Amended Counterclaim, it shall respond to the motion to dismiss by no later than **February 8, 2023.**

Finally, if Amphenol Puerto Rico provides notice that it will be filing a First Amended Counterclaim, the Court will terminate without prejudice Cooper-Standard's currently-pending motion to dismiss as moot. Cooper-Standard may re-file a motion to dismiss directed at the First Amended Counterclaim if it believes that such a motion is appropriate after reviewing that pleading.

IT IS SO ORDERED.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: January 11, 2023

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on January 11, 2023, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

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